



WEB COPY



H.C.P.No.958 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM  
AND  
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.958 of 2024

Hannah Vidhya Twincy  
W/o Thambiraja @ Rajkumar @  
Rajprakash Godwin .. Petitioner

v.

1. The Additional Chief Secretary  
Home, Prohibition and Excise Department  
Secretariat, Chennai 600 009
2. The Commissioner of Police  
Greater Chennai  
Chennai City Police  
Office of the Commissioner of Police  
Vepery, Chennai 600 007
3. The Superintendent of Prison  
Central Prison-II, Puzhal  
Chennai 600 066
4. The Assistant Commissioner of Police  
Thirumangalam Range  
Chennai



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5. The Inspector of Police  
V-5 Thirumangalam Police Station  
Chennai

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, to call for the records relating to the detention order 291/BCDFGISSSV/2024 dated 02.04.2024 passed by the second respondent and set aside the same and direct the respondents to produce the body of the detenu Thambiraja @ Rajkumar @ Rajprakash Godwin, S/o Devasakayam, aged 54 years, now detained in Central Prison-II, Puzhal, Chennai, before this Hon'ble Court and set him liberty forthwith.

For Petitioner :: Mr.P.Rajkumar Pandian

For Respondents :: Mr.E.Raj Thilak  
Additional Public Prosecutor

#### ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The wife of the detenu is the petitioner in the present habeas corpus petition. The detenu Thambiraja @ Rajkumar @ Rajaprakash Godwin is involved in several criminal cases, which are all pending for a long time. The criminal cases are registered from the year 1996 onwards. However, those cases have no close proximity with the ground case relied on by the detaining authority for issuing the order impugned under Act 14 of 1982. The ground case was registered by V-5, Thirumangalam Police Station in



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Crime No.90 of 2024 under Sections 147, 148, 294(b), 353, 506(ii), 120(B), 387/IPC & 25(1-A) of Arms Act read with Section 8(c) r/w 20(b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The learned counsel for the petitioner would submit that as per the First Information Report in the ground case, the alleged occurrence took place on 13.03.2024. However, the detenu was arrested on 14.03.2024. Relying on the discrepancy, he would submit that the detenu is not involved in the said case.

3. Though the learned Additional Public Prosecutor would oppose by stating that the detention order itself clearly shows that the Assistant Commissioner of Police has seized a pistol, 68 bullets and a Hyundai car bearing Registration No.TN-09-DC-9389 from the accused Thambiraja @ Rajkumar @ Rajaprakash Godwin, S/o Devasagayam on 14.03.2024 at 15.00 hours at the above spot under cover of mahazar in the presence of witnesses.



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4. The fact remains that the detenu was arrested on 14.03.2024 and is in actual imprisonment under the preventive detention law for the past about 7½ months. It is contended that the detenu was working in the State of Bihar for more than 5 years and has a family including his two children. The detenu Thambiraja @ Rajkumar @ Rajaparakash Godwin filed a sworn affidavit by stating that he will appear before the trial Court in the cases pending against him and will cooperate with the trial Court for disposing of the cases. The affidavit filed by him reads as under:-

“2. I undertake that I will appear before the concerned trial court in the cases pending against me and I will cooperate with the trial court for disposing the said cases.

3. I submit that in case of any unavoidable circumstances or genuine reasons preventing my appearance in court, I shall ensure that appropriate permission is obtained from the Hon'ble Court and that my counsel will represent on my behalf.

4. I submit that I fully understand that failure to adhere to this undertaking may result in adverse consequences, including the issuance of non-bailable warrants or any other action deemed appropriate by the



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Hon'ble Court.”

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5. Considering the fact that the detenu is in actual imprisonment under the preventive detention law for about 7½ months and taking note of the sworn affidavit that he will appear before the trial Court in the pending cases and cooperate with the investigating agency for disposal of those cases, we are inclined to consider the present petition.

6. Accordingly, the detention order passed by the second respondent in proceedings No.291/BCDFGISSSV/2024 dated 02.04.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Thambiraja @ Rajkumar @ Rajaprakash Godwin, S/o Devasagayam, aged 54 years, now confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

Index : yes/no  
Neutral citation : yes/no  
ss  
To

(S.M.S.,J.) (M.J.R.,J.)  
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